

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION**

CIVIL CASE NO. 1:11cv197

TRACI E. BYERS,)	
)	
Plaintiff,)	
)	
vs.)	ORDER OF REMAND
)	
MICHAEL J. ASTRUE,)	
Commissioner of Social Security,)	
)	
Defendant.)	
<hr/>)	

THIS MATTER is before the Court on the Defendant's Motion for Reversal and Remand pursuant to Sentence Four of 42 U.S.C. Section 405(g) [Doc. 11]. The Plaintiff consents to the motion.

Sentence Four of 42 U.S.C. §405(g) provides, in pertinent part, that "[t]he court shall have power to enter, upon the pleadings and transcript of the record, a judgment affirming, modifying, or reversing the decision of the Commissioner of Social Security, with or without remanding the cause for a rehearing." The parties here have moved for reversal of the decision of the Defendant and for remand for further administrative proceedings. Specifically, the parties seek remand for the consideration of additional evidence.

Upon remand to the Commissioner, the Appeals Council shall assign this case to a new administrative law judge (ALJ). The Appeals Council will instruct the new ALJ to: (1) further develop the record and obtain evidence from an orthopedist or neurosurgeon to clarify the nature and severity of the Plaintiff's impairments; and (2) further evaluate the opinion proffered by consultative examiner Dr. Shana James in accordance with 20 C.F.R. sections 404.1527(d) and 416.927(d), and to explain the weight afforded to that opinion. The Court finds remand is appropriate. Melkonyan v. Sullivan, 501 U.S. 89, 111 S.Ct. 2157, 115 L.Ed.2d 78 (1991).

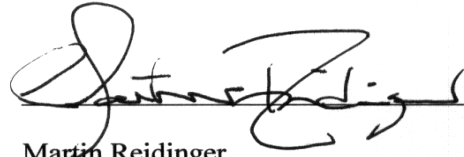
IT IS, THEREFORE, ORDERED that the Defendant's Motion for Reversal and Remand pursuant to Sentence Four of 42 U.S.C. §405(g) [Doc. 11] is hereby **GRANTED**.

IT IS FURTHER ORDERED that the decision of the Commissioner of Social Security is hereby **REVERSED** and the case is hereby **REMANDED**.

IT IS FURTHER ORDERED that upon remand, the Commissioner shall comply with the directives contained within this Order.

The Clerk of Court shall enter separate Judgment of Remand simultaneously herewith. The Clerk of Court is notified that this is a final judgment closing the case.

Signed: February 6, 2012


Martin Reidinger
United States District Judge

